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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/692,765	10/19/2000	Thomas E. Saulpaugh	5181-65700	8734
58467	7590	03/02/2010	EXAMINER	
MHKKG/Oracle (Sun) P.O. BOX 398 AUSTIN, TX 78767			PATEL, ASHOKKUMAR B	
		ART UNIT	PAPER NUMBER	
		2449		
		NOTIFICATION DATE		DELIVERY MODE
		03/02/2010		ELECTRONIC

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte THOMAS E. SAULPAUGH, GREGORY L. SLAUGHTER, and
ERIC POUYOUL

Appeal 2008-005516
Application 09/692,765¹
Technology Center 2400

Decided: February 26, 2010

Before JAMES D. THOMAS, JOHN A. JEFFERY, and
CAROLYN D. THOMAS, *Administrative Patent Judges*.

C. THOMAS, *Administrative Patent Judge*.

DECISION ON APPEAL

¹ Application filed October 19, 2000. The real party in interest is Sun Microsystems, Inc.

I. STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from a final rejection of claims 1-48, which are all the claims pending in the application. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

A. INVENTION

Appellants invented a system, method, and computer readable medium for providing a heterogeneous distributed computing environment implementing publish and subscribe event handling based upon a message passing model using event message endpoints for event notification among network clients and services. (Spec., 1:27-29.)

B. ILLUSTRATIVE CLAIM

The appeal contains claims 1-48. Claims 1, 14, 27, and 36 are independent claims. Claim 1 is illustrative:

1. A method for handling events in a distributed computing environment, comprising:

receiving a message in a data representation language sent to a client platform in the distributed computing environment from a service in the distributed computing environment, wherein the message includes a data representation language representation of an event generated by the service; and

sending the data representation language representation of the event to one or more processes registered to receive the event from the service.

C. REFERENCES

The references relied upon by the Examiner as evidence in rejecting the claims on appeal are as follows:

Meltzer	US 6,542,912 B2	Apr. 1, 2003
Bass	US 6,549,956 B1	Apr. 15, 2003

D. REJECTIONS

The Examiner entered the following rejections which are before us for review:

- (1) Claims 1-11, 14-24, 27-33, and 36-46 are rejected under 35 U.S.C. § 102(e) as being anticipated by Bass; and
- (2) Claims 12, 13, 25, 26, 34, 35, 47, and 48 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Bass in view of Meltzer.

II. FINDINGS OF FACT

The following findings of fact (FF) are supported by a preponderance of the evidence.

Specification

1. The Specification discloses that “[t]he messages may be in a data representation language such as eXtensible Mark-up Language (XML).” (Spec., 12:10-11.)
2. The Specification discloses that “while embodiments are described herein employing XML, other meta-data type languages or formats may be used in alternate embodiments.” (Spec., 22:12-13.)

Bass

3. Bass discloses that “[f]or transport across the network, the inventive channel adapters convert the event information into a format acceptable by the network.” (Col. 2, ll. 15-17.)
4. In Bass, the “event would be transformed into (for example) an e-mail via SMTP, and mailed from the channel adapter through the Internet to domain 2 13.” (Col. 3, ll. 45-47.)
5. Bass discloses that “[e]ach channel adapter is initialized with a set of events it will export to its peer at the other domain. The two channel adapters handshake with these sets of events.” (Col. 2, ll. 4-6.)
6. In Bass, “[t]o guarantee delivery across the network, the inventive channel adapters use plurality of states and status messages to indicate the status of delivery, receipt, and publication of the events.” (Col. 2, ll. 23-26.)
7. Bass discloses that “prior to transfer of events between the domains, the respective process and channel adapters of the domains must be configured to send and receive the different events.” (Col. 4, ll. 57-59.)

Meltzer

8. Meltzer discloses that “companies exchange information and services using self-defining, machine-readable documents, such as XML (Extensible Markup Language) based documents.” (Col. 2, ll. 48-50.)
9. Meltzer discloses “translating at least a portion of the input document into a format readable according to the variant transaction processing architecture of the transaction process utilizing the information.” (Col. 5, ll. 15-18.)
10. Meltzer discloses that “[f]or a participant having a JAVA virtual machine acting as a transaction process front end, particular fields in the

documents are translated into JAVA objects, including the data as well as get and set functions associated with a JAVA object.” (Col. 5, ll. 22-26.)

III. PRINCIPLES OF LAW

In rejecting claims under 35 U.S.C. § 102, “[a] single prior art reference that discloses, either expressly or inherently, each limitation of a claim invalidates that claim by anticipation.” *Perricone v. Medicis Pharm. Corp.*, 432 F.3d 1368, 1375 (Fed. Cir. 2005) (citing *Minn. Mining & Mfg. Co. v. Johnson & Johnson Orthopaedics, Inc.*, 976 F.2d 1559, 1565 (Fed. Cir. 1992)).

Anticipation of a patent claim requires a finding that the claim at issue ‘reads on’ a prior art reference. In other words, if granting patent protection on the disputed claim would allow the patentee to exclude the public from practicing the prior art, then that claim is anticipated, regardless of whether it also covers subject matter not in the prior art.

Atlas Powder Co. v. IRECO, Inc., 190 F.3d 1342, 1346 (Fed Cir. 1999) (internal citations omitted).

“What matters is the objective reach of the claim. If the claim extends to what is obvious, it is invalid under § 103.” *KSR Int’l Co. v. Teleflex, Inc.*, 550 U.S. 398, 419 (2007). To be nonobvious, an improvement must be “more than the predictable use of prior art elements according to their established functions.” *Id.* at 417.

IV. ANALYSIS

The Anticipation Rejection

We first consider the Examiner’s rejection of the claims under 35 U.S.C. § 102(e) as being anticipated by Bass.

Claims 1, 11, 14, 24, 27, 28, 32, 36, and 46

Appellants contend that “SMTP is a protocol, not a data representation language . . . the Simple Mail Transfer Protocol does not require any particular language, let alone a data representation language.” (App. Br. 7-8.) Appellants further contend that “Bass is describing the use of *protocols*, not any particular *language*.” (App. Br. 8.)

The Examiner found that in Bass “‘a message in a data representation language’ is the email, which is ‘the data representation language representation of the event’, taught by Bass.” (Ans. 21.) The Examiner further found that “Bass’ failure to ‘mention anything about XML, as admitted by the Examiner regarding the rejection of claim 13, discussed below’, has nothing to do with claims 1, 11, 14, 24, 36 and 46, since any of these claim’s language makes no indication of XML.” (Ans. 22.)

Issue: Have Appellants shown that the Examiner erred in finding that Bass discloses *receiving a message in a data representation language* and *sending the data representation language representation of the event to one or more processes?*

In essence, Appellants contend that the Bass is merely disclosing “protocol formats” and not any “data representation language” of the event (*see* App. Br. 7-8). We disagree.

This issue turns on the difference between Bass’ different “protocol formats” and the claimed “data representation language.” Appellants’ Specification states that the messages may be in an XML language (FF 1) or

any other meta-data type languages or formats (FF 2). However, claim 1 does not recite any specific XML language or any meta-data representation.

We note that Appellants could have amended the claims during prosecution to recite “XML representation” or a “meta-data representation.” However, Appellants chose not to do so for representative claim 1. Because “app[ellants] may amend claims to narrow their scope, a broad construction during prosecution creates no unfairness to the applicant or patentee.” *In re ICON Health and Fitness, Inc.*, 496 F.3d 1374, 1379 (Fed. Cir. 2007) (citing *In re Am. Acad. of Sci. Tech Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004)). Here, we decline to read the limitation of “XML representation” or “meta-data representation” into the claims. “[L]imitations are not to be read into the claims from the specification.” *In re Van Geuns*, 988 F.2d 1181, 1184 (Fed. Cir. 1993) (citing *In re Zletz*, 893 F.2d 319, 321 (Fed. Cir. 1989)).

Claim 1 merely requires receiving and sending data in a “data representation language” which includes any data about data. We find that Bass’s transformation of data into an email via SMTP supports the claimed concept of data about data (FF 3-4).

Thus, Appellants have *not* persuaded us of error in the Examiner’s conclusion of anticipation for representative claim 1. Therefore, we affirm the Examiner’s § 102 rejection of independent claim 1 and of claims 11, 14, 24, 27, 28, 32, 36, and 46, which essentially fall therewith.

Claims 2, 3, 7, 10, 15, 18, 19, 21, 29, 30, 31, 37, 38, 42, and 45

Appellants contend that “[t]he Examiner has not cited any portion of Bass that teaches a *data representation language schema* defining a message interface for a set of events. Instead, Basses Bass [sic] teach that each

channel adapter includes two different interfaces for communicating event information.” (App. Br. 11.)

Appellants contend that “not only do the event type lists in Bass not involve the generation of any message endpoints, they also have absolutely nothing to do with a data representation language schema.” (App. Br. 12.)

The Examiner found that the “channel adapters are end points for receiving as well as delivering events between two domains.” (Ans. 24)(emphasis omitted.) The Examiner further found that “the channel adapters include interfaces protocol interfaces facilitating the conversion of the events into a network transportable format, e.g.[,] e-mail.” (*Id.*)(emphasis omitted).

Issue: Have Appellants shown that the Examiner erred in finding that Bass discloses a data representation language schema that defines a message interface and generating an event message endpoint according to the schema?

For the reasons set forth by the Examiner in the Answer on pages 23-25, we affirm the rejection of representative claim 2 on appeal. Although the Briefs argue the limitations in claim 2 as noted *supra*, such claim limitations have been directly argued by the Examiner in the statements of the rejections and in the Examiner’s responsive arguments. As such, we endorse and adopt the Examiner’s finding. We add that a “schema” can be seen as a way to define a structure. With this in mind, Bass discloses initializing the channel adapters such that each channel adapter performs a

handshake with the events (FF 5). We find that the claimed receiving a data representation language schema reads on Bass' initialization and handshake steps.

Thus, Appellants have *not* persuaded us of error in the Examiner's conclusion of anticipation for representative claim 2. Therefore, we affirm the Examiner's § 102 rejection of independent claim 2 and of claims 3, 7, 10, 15, 18, 19, 21, 29, 30, 31, 37, 38, 42, and 45, which essentially fall therewith.

Claims 4, 5, 6, 16, 17, 20, 33, 39, 40, and 41

Appellants contend that "Bass fails to disclose wherein the data representation language message from the service includes an authentication credential for the service." (App. Br. 13.)(emphasis omitted).

The Examiner found that Bass discloses "a configuration interface." (Ans. 27.)

Issue: Have Appellants shown that the Examiner erred in finding that Bass discloses authentication credential for the service?

The Examiner found that Bass' adapter includes a configuration interface which includes an authentication process (Ans. 27). We agree. For example, Bass system guarantees delivery across the network (i.e., from the service) by using state and status messages to indicate delivery, receipt, and publication (FF 6). We find that the claimed "authentication credential for the service" reads on Bass' guarantee delivery service.

Thus, Appellants have *not* persuaded us of error in the Examiner’s conclusion of anticipation for representative claim 4. Therefore, we affirm the Examiner’s § 102 rejection of independent claim 4 and of claims 5, 6, 16, 17, 20, 33, 39, 40, and 41, which essentially fall therewith.

Claims 8, 22, and 43

Appellants contend that “[n]owhere does Bass teach providing an event handler callback method to an event message endpoint.” (App. Br. 18.)

The Examiner found that Bass discloses “when the event is published by the originating process adapter 19, the sending adapter 15 will receive the event, reformat the event and send it to the channel adapter 14 of domain 1 12 via Internet 11.” (Ans. 34.)

Issue: Have Appellants shown that the Examiner erred in finding that Bass discloses an event handler callback method?

While claim 8 recites an “event handler callback method,” we find that claim 8 fails to specifically define what this callback method entails. The Examiner found that such a claimed feature reads on Bass’ transfer of events between the domains (Ans. 34). We agree.

Specifically, Bass discloses that prior to transfer of events, configuration of the process and adapters of the domains is accomplished (FF 7). We find that Bass’ prior configuration is consistent with an event handler.

Thus, Appellants have *not* persuaded us of error in the Examiner’s conclusion of anticipation for representative claim 8. Therefore, we affirm the Examiner’s § 102 rejection of independent claim 8 and of claims 22 and 43, which essentially fall therewith.

Claims 9, 23, and 44

Appellants contend that “nowhere does Bass mention a channel adapter, or other process, unsubscribing to events.” (App. Br. 19.)

The Examiner found that in Bass, “[t]he administrator would configure the broker 17 to list channel adapter 15 as a subscriber to the event.” (Ans. 35) (emphasis omitted.)

Issue: Have Appellants shown that the Examiner erred in finding that Bass discloses the event message gate unsubscribing to the first event?

The Examiner found that Bass discloses that the broker is responsible for listing subscribers and routing published events thereto (Ans. 35-36). As such, it stands to reason that if Bass’ broker can maintain a subscriber list, the broker must also be able to detect when one un-subscribes to an event. Therefore, we find that the claimed *message gate unsubscribing to the first event* reads on Bass’ broker subscriber list.

Thus, Appellants have *not* persuaded us of error in the Examiner’s conclusion of anticipation for representative claim 9. Therefore, we affirm the Examiner’s § 102 rejection of independent claim 9 and of claims 23 and 44, which essentially fall therewith.

The Obviousness Rejection

We now consider the Examiner's rejection of the claims under 35 U.S.C. § 103(a).

Claims 12, 13, 25, 26, 34, 35, 47, and 48

Appellants contend that the combination of Bass and Meltzer fail to disclose the event is a JAVA event. (App. Br. 26.) Appellants further contend that "Meltzer does not teach or suggest sending messages in a XML." (App. Br. 28.)

The Examiner found that Meltzer "teaches '[b]y translating the elements of the XML document into JAVA events or other programming structures that are suitable for use by the transaction processing front end of the respective nodes enables rich functionality at nodes utilizing the documents being traded.'" (Ans. 51-52.)

Issue: Have Appellants shown that the Examiner erred in finding that the combination of Bass and Meltzer discloses using a JAVA event or XML?

Here, the Examiner relies on Bass to disclose the use of a data representation language (as discussed *supra*) and imports Meltzer to teach that it was known to use JAVA events. Specifically, Meltzer discloses exchanging information in machine readable documents, such as XML based documents (FF 8) and JAVA objects (FF 9-10). The Examiner concluded that it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the above-noted teachings of Meltzer's JAVA events in Bass to enable the addition of new listener

programs (Ans. 52.) Thus, we find that the Examiner provided some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. We also point out that the Examiner's analysis need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ to use XML and JAVA events.

Thus, Appellants have *not* persuaded us of error in the Examiner's conclusion of obviousness for representative claim 12. Therefore, we affirm the Examiner's § 103 rejection of dependent claim 12 and of claims 13, 25, 26, 34, 35, 47, and 48, which essentially fall therewith.

V. CONCLUSIONS

We conclude that Appellants have not shown that the Examiner erred in rejecting claims 1-48.

Thus, claims 1-48 are not patentable.

VI. DECISION

In view of the foregoing discussion, we affirm the Examiner's rejection of claims 1-48.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv) (2009).

AFFIRMED

Appeal 2008-005516
Application 09/692,765

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